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Transcript

Newsletter of the Orange County Public Law Library

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A Tribute to Warren C. Vining III

by Victoria Garrott-Collins, Government Documents Assistant

Sadly, our friend and colleague Warren Vining passed away suddenly of a heart attack on February 19, 2005. As evident in the following tributes by some of his friends and colleagues he will be greatly missed by all of us. While I could never get him to actually be on the Newsletter Committee, he was always willing to help us when we needed articles. He was a frequent contributor to the *Transcript*. He usually submitted very in-depth intellectual articles. They were most often too long for me to fit in and I always dreaded having to tell him that he needed to change something. I knew how committed to his art he was and I was worried he would decide we couldn't use them if I had to change something. We usually compromised by splitting them into a series of articles. Unfortunately, we will never get to read the last installments of his last series of articles *Of Human Turbulence* featured in the August 2004, November 2004 and February 2005 issues of the *Transcript*.


The Newsletter Committee decided to feature Warren in this issue of the *Transcript* by compiling this tribute to him. We wanted to include everyone's thoughts about Warren into one article. The following tributes were submitted by some of his current and former colleagues.

From Margaret Rogers:

Warren C. Vining III marched to the beat of a different drummer! I knew and worked with Warren for over 20 years and he made those 20 years very interesting. Warren loved sports and was a veteran runner and swimmer; he loved to swim in the ocean and run on the beaches of Orange County, especially "The Cove."

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ON DISPLAY

The library has set up a special display honoring Warren Vining, who unexpectedly died of a heart attack in February, shortly after the publication of his last article in this newsletter. He was a frequent contributor, usually reviewing books that discussed the relationship between law and philosophy. The current display includes books that Warren used in previous displays and articles that featured his two greatest interests, philosophy and art, plus samples of his own paintings, photography and poetry. 

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Warren was born in the US, but lived as a young child in India where his parents were missionaries. His family moved back to the US and California where he grew up in the Orange County of the 1950s and 1960s. Warren loved the 2 lane roads, all the orange orchards and eucalyptus trees, and the small town feeling that was Orange County during that time.

I think that Warren would have been happiest if Orange County had stayed the way it was during his childhood and never had developed into paved freeways, huge housing complexes, office buildings, and far too many people. He talked about the past a lot and had many interesting stories.

Sadly for the people around him there will be no more stories about Orange County or articles in the Library's newsletter *The Transcript*. I know that even though I am now retired I miss Warren a great deal every day. He was part of my life and now he is gone.

From Maryruth Storer: (excerpt from *Tributes to Warren Vining* originally published in the March 2005 SCALL Newsletter)

"...If you ever read our staff newsletter *Transcript*,... you surely were impressed by the very intellectual articles he wrote. If you entered our Library, you likely noticed our display case; Warren developed most of our exhibits and prepared them beautifully.

Warren died of a heart attack on February 19, 2005, and his fellow staff are greatly shocked and deeply saddened by this sudden event. Warren appeared to be very fit, and was looking forward to retiring in 2006. We found the following "Bio Sketch" on his work computer (he wrote it in 2003), and some of us think it gives a sense of the wonderful person he was:

"W. Clifford Vining has been employed at the Orange County Public Law Library for over 20 years. He is an artist and photographer, and has degrees in Philosophy and Literature. He is a former officer in the USMC and Vietnam Veteran. He graduated from Tustin High School in 1961, Santa Ana College in 1963, Westmont College in 1965 and California State University, Long Beach in 1990. He has lived in Orange County since 1956 having spent his early childhood years in Assam, India. He was born in Kansas City, Missouri in 1942 but has never grown past 24 years old and doesn't intend to because there

is no good reason to."

Warren's creative and informative contributions to the Orange County Public Law Library, law librarians in Southern California, and to our patrons will be sorely missed."

From John Quigley:

Despite flights into philosophical speculations, Warren could not escape his innate sense of morality. He was the most honest person I've ever known. One might expect him to therefore have no tolerance for less honest people, but that was not so. Underneath his often gruff facade lay a very forgiving heart.

From Kelsey Chrisley:

I couldn't sleep Feb 22 and this came to my mind. I hope you don't mind me sharing it with you. Warren was a very important person in my life. He helped me through some tough times.

Goodbye to Butch and the childhood stories of India

Goodbye to the track star he's run his last race
Goodbye to the Marine, the warrior, who fought in Vietnam

Goodbye to the man of love and grace
Goodbye to the philosophical debates and the Jeffersonian lessons.

Goodbye to instructions of making proper tea and the types that abound

Goodbye to the artist of paint, photography and words

Goodbye to a Great Friend
Warren Clifford Vining III

From Mora Prestinary:

Until we meet again, I will miss the lofty lunchtime discussions on the condition of man, the merits of films, the beauty of motion, the wonder of color. You had the courage, to open your heart and mind and share your feelings and thoughts with us. We felt your exceptional presence as a colleague and as a person. We grieve your loss as one who is a brother. Until we meet again, thank you for the memories.

From Trisha Trujillo:

What I remember most and best about Warren were his ardent philosophical/historical discussions and his dedication to creating artistic displays for the library. He gave us food for thought with his academic lunchtime discourses, often with some wry

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ALL ABOUT JURIES

by John Patrick Quigley



This year, the American Bar Association celebrated Law Day on May 1st with the theme: “The American Jury: We the People in Action.” This is a timely topic, because juries have been in the news lately.

JURY SELECTION

During jury selection in the recent Avila case, an Orange County disc jockey advised listeners to lie to conceal their biases, potentially frustrating attempts by the Court and attorneys to select an unbiased jury with voir dire questioning.

We have several recent books on selecting juries: *Jury Selection: The Law, Art, and Science of Selecting a Jury*, GEN3 KF8979.J67 1990 (2005 supp.); *Mastering Voir Dire and Jury Selection: Gain an Edge in Questioning and Selecting Your Jury*, GEN3 KF8979.F73 2004; *Jury Selection*, GEN3 KF8979.L48 2004; *Jury Selection in Civil & Criminal Trials*, GEN3 KF8979.G56 1984 (2004 supp.); *Jury Selection: Sample Voir Dire Questions*, GEN3 KF8979.A15.J87 2001; *Jury Selection: Strategy and Science*, GEN3 KF8979.B572 (2000); and *Jury Selection: An Attorney's Guide to Jury Law and Methods*, GEN3 KF8979.S73 1993 (2000 supp.).

Counsel: “Can you tell us that you would follow the court’s instructions regardless of what else happened for you during the course of the trial?”

Juror: “Cognitively, yes, Rationally, yes. Emotionally, effectively, I don’t know. Or perhaps effectively, yes, and emotionally, no.” *Disorderly Conduct*, GEN4 K184.J66 1987.

JURY MISCONDUCT

A recent Colorado case made news when that state’s Supreme Court reversed a death sentence, ruling that a juror taking a bible into deliberations and quoting from it constituted misconduct. California misconduct is discussed in Witkin’s 7 *California Procedure* 380-394, GEN3 KFC995.W52 1995 (2005 supp.).

Sometimes anticipated misconduct may just be wishful thinking. A prosecution witness refused to testify what defendant said while kissing her, because it was “too embarrassing”, so she wrote it on a piece of paper. This was passed among the jurors until an attractive female juror passed it to the last

juror, a male who had dozed off. After reading it, he smiled at the lady and put it in his pocket. When the Judge ordered him to give it to the bailiff, he refused, saying it was personal. *Legalaffs* (page 102), GEN4 K184.K4.

JURY INSTRUCTIONS

Our newest instructions are *Modern Jury Instructions: Patent Litigation*, GEN5 KF3155.M63 2005. Other instructions for a wide variety of cases can be found in our excellent bibliography: “SOURCES FOR JURY INSTRUCTIONS”, *Research Guide 16*, Revised October, 2003, available at the Reference Desk.

Parties can request their own instructions, but they may not be accepted by the Court: “Defendant’s Proposed Instruction No. 8: You are hereby instructed that anybody who kills four drug dealers can’t be all bad.” *Disorderly Conduct*, GEN4 K184.J66 1987.

UNDERSTANDING JURIES

Our most definitive report on research into how juries decide is *A Handbook of Jury Research*, GEN3 KF8972.H36 1999. Shorter works for special cases include *Legal Blame: How Jurors Think and Talk About Accidents*, GEN3 KF8972.F45 2000, and *Business on Trial: The Civil Jury and Corporate Responsibility*, GEN3 KF8972.H267 2000.

In high-stakes cases, lawyers may hire consultants to advise them (*Stack and Sway: The New Science of Jury Consulting*, GEN3 KF8979.K74 2002) or mock juries to practice on (*Surrogate Juries*, GEN3 KF8972.A23 1990), both intended to help them better understand how jurors think.

The Court: “If that be your verdict, so say you all.”

Two Jurors: “You all.” *Disorder in the Court* (page 128), GEN4 K184.S48 1992.

ENPOWERED JURIES

Conflict between Judge and Jury over application of the law has been a continuing issue. See *Jury Nullification: The Evolution of a Doctrine*, GEN3 KF8982.C66 1998. The checkered history of juries is summarized in *Historical Introduction to Anglo-American Law in a Nutshell*, GEN5 KD532.Z9K44 1990. Orig-

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nally, they supposedly were citizens who had the best independent knowledge of the facts of the case, as opposed to today's twelve most ignorant citizens, a requirement not accepted by everybody.

"When the peremptory challenges were all exhausted, a jury of twelve men were empaneled – a jury who swore that they had neither heard, read, talked about nor expressed an opinion concerning a murder which the very cattle in the corrals, the Indians in the sage-brush and the stones in the street were cognizant of!" From *Roughing It*, by Mark Twain, quoted on page 213 in *The Oxford Dictionary of Humorous Quotations*, REF PN6084.H8O94 1995.

In times past, juries have also asserted the right to determine what the law should be: *Verdict According to Conscience: Perspectives on the English Criminal Trial Jury 1200-1800*, GEN5 KD8400.G73 1985. This was especially true in criminal cases when the punishment specified by the law was severe. In New South Wales, a defendant was charged with stealing cows and the jury returned a verdict of "Not guilty, if he returns the cows." The judge read them the riot act and ordered them to reconsider. They returned with a belligerent air and found the accused "not guilty – and he doesn't have to return the cows." *The Oxford Book of Legal Anecdotes* (page 11), GEN4 K183.O95 1986.

ELIMINATING JURIES

Juries are not without critics, discussed in *Judging the Jury*, GEN3 KF8972.H27 1986, and *Juries on Trial: Forces of American Justice*, GEN3 KF8972.D56 1984. Civil juries have been virtually abolished in the United Kingdom, Australia and New Zealand. But the protection they afford against criminal charges is too important to eliminate, despite occasional exoneration of obviously guilty defendants, such as the following.

Defendant entered a biker bar armed with a pistol, automatic rifle, four hand grenades and a flak jacket. When startled patrons advanced to stop him, he killed two and injured five. He claimed that he was only going to detain for arrest a man who had earlier shot him with a pellet gun, and that he shot the other patrons in self defense. The jury found him not guilty, saying that the DA hadn't disproved that the defendant was acting in self defense. *Presumed Ignorant* (page 13), GEN4 K184.G744 1998. 📖

LOOKING AT THE WEB

by Mora Prestinary, Reference Librarian



JURY INSTRUCTIONS

- California Courts, California Civil Jury Instructions
http://www.courtinfo.ca.gov/reference/4_34juryinst.htm
- URLaw Legal Research Center, State and Federal Jury Instructions
<http://www.netlizard.com/yourlaw/juryinstructions.htm>
- Model Criminal Jury Instructions
<http://www.ce9.uscourts.gov/web/sdocuments.nsf/criminal+jury>
- Jury Instruction.com
<http://www.juryinstruction.com/>
- Guide_to_Model_Patent_Jury_Instructions.htm
American Intellectual Property Association,
Guide to Model Patent Jury Instructions
<http://www.aipla.org/Content/ContentGroups/Publications1/>
- U.S. Department of Justice Federal Prosecution of Violations of Intellectual Property Rights, Sample Language for Jury Instructions
http://www.usdoj.gov/criminal/cybercrime/intell_prop_rts/toc.htm
- Manual of Model Jury Instructions for Ninth Circuit- Civil
<http://www.ce9.uscourts.gov/web/sdocuments.nsf/civ>
- LegalForms.com, Jury Instructions
<http://www.uslegalforms.com/specialareas.htm> 📖




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humor thrown in for a good laugh. And he always gave detailed attention to every new book display and to our booth at the fair. His artistic talent was truly appreciated by staff and patrons alike. A note that Warren had saved, written by his friend Ray, says it best, "Warren, I didn't get a chance to commend you on how wonderful your book display is. It runs rings around your last one!"

From Ray Coleman:

Warren, aside from all of his obvious attributes, was a talented artist. The four works of art by him, displayed on my walls are attestations of his gift. In connection with all of this the two of us were scheduled to visit the Santa Ana Arts Building together exactly two weeks from the day he had passed. The art galleries with all of the various types of art, from traditional to impressionistic, to the most abstract, seem to me to be so metaphoric of Warren's life as I knew it.

He was truly a unique work of art himself, with the potential for greatness. 


HEINONLINE

by Mora Prestinary, Reference Librarian

DATABASES

The OCPLL has a full-text database of legal journals on HeinOnline. It includes :

- ✧ *Law Journal Library*
- ✧ *Most-Cited Law Journals*
- ✧ *Core U.S./Most Cited Law Journals*
- ✧ *American Bar Association Journals*
- ✧ *International & Non-U.S. Law Journals*
- ✧ *Criminal Justice Journals*
- ✧ *Federal Register Library* 1936 - 1997
- ✧ *Treaties and Agreements Library*
- ✧ *U.S. Supreme Court Library* 1754-2002
- ✧ *U.S. Reports Slip Opinions* 2002-To Date
- ✧ *U.S. Attorney General Opinions*
- ✧ *Legal Classics*


The Library can e-mail articles from this database for a fee. See <http://www.oc.ca.gov/lawlib/faxserv.htm> for charges. 

STAFF NEWS

Meet our new cataloger, Steven Nadolny

Steven was born in Inglewood, California, to Irene, a procurement analyst, and the late Anthony Nadolny, a machinist. He has an older brother, Jim, a dentist in Berkeley and a sister Mary Clare, a dietitian in Guam. Steven was an identical twin. He graduated from Hawthorne High School where he was student body president and the only one of his siblings to attend public school. In 1983, he graduated summa cum laude from Loyola Marymount University where he double majored in Political Science and Economics.

In addition to being a cataloger, Steven is a former sales manager, teacher, superior court clerk and law office manager. He started cataloging in 1990 at Loyola Marymount's Von der Ahe library, and was head cataloger at Long Beach State. He later moved on to Chapman University's Harry and Diane Rinker Law Library.

Steven is an accomplished songwriter with two published songs to his credit. A country and western tune entitled, "Only a Memory Away" and a theme song entitled, "Proud, Strong and United." He spends his free time volunteering at St. Joseph's in Hawthorne assisting with food distribution to seniors and is active in ministry with lesbian and gay Catholics (MLGC) out of St. Matthew's in Long Beach. His hobbies include baking, singing and Oscar watching. He likes to think he has a sense of humor. His domestic partner, Jim, an engineer at Raytheon and he share their home with their female Beagle, Sam. 



Ask a Librarian

Question of the Quarter

by Mora Prestinary, Reference Librarian

Q: How do you cancel or modify a restraining order (family law)?

A: The California Courts Self-Help web page has instructions on HOW TO:
Ask the Court to MODIFY (change) your restraining order or;
Ask the Court to VACATE (take off) your restraining order.

<http://www.courtinfo.ca.gov/programs/equalaccess/documents/mod-vacatero4-28-04.pdf>



DissoMaster™

The library recently acquired the DissoMaster™ Suite of Windows™ based programs, which includes Executioner™ and Propertizer™. The programs are available for the public to use free of cost and are installed in the CD ROM viewing station next to the catalog computers. DissoMaster™ calculates net income after taxes, guideline support and best child/spousal-support allocation for maximum combined income, while Executioner™ calculates support arrearages. Propertizer™ aids in the division of property. If you wish to use these programs, the user guides are available at the reference desk.

OCPLL will be closed for the following Court Holidays

May 30, Memorial Day
July 4, Independence Day
September 5, Labor Day

Regular Library Hours

Monday-Thursday	8 am-8 pm
Friday	8 am-6 pm
Saturday	9 am-6 pm

Closed Sundays and Court Holidays

The Orange County Public Law Library
derives its income from a portion of the filing fees in civil cases heard in the
Superior Courts of Orange County, rather than from general tax funds.

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